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Petition to Revive Unintentionally Abandoned Patent Application

Application No.:	10/750,548
Appl'n Filing Date:	December 31, 2003
Examiner:	(to be assigned)
Art Unit:	(to be assigned)
Attorney Docket:	2003-0025
First Inventor:	Robert S. CAHN
Title of Invention:	ADJUSTABLE RATE USAGE-BASED BILLING FOR DATA SERVICES

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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I hereby certify that this paper is being deposited with the United States Postal Service with sufficient first class postage as first class mail, addressed as set forth above, on the date shown below.

Signature of Raymond C. Glenny:

Date: May 19, 2005

Sir:

The above-identified patent application became abandoned for failure to file a reply to a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION dated May 4, 2004.

A NOTICE OF ABANDONMENT was mailed on January 10, 2005. The application thus became abandoned on July 4, 2004, less than one year before the filing of this petition.

Applicant hereby petitions for revival of this patent application.

Applicant hereby states that the entire delay in filing the required reply (accompanying this petition) until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional.

Additional information supporting this petition is provided as follows.

07/14/2005 HVUDNG1 00000073 10750548

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Under MPEP § 711.03(c)(D), because this petition is not being filed within three months of the NOTICE OF ABANDONMENT, Applicant provides the following showing of how this delay was unintentional. According to the best understanding of the undersigned attorney:

- 1• Upon receipt of PTO communications, Assignee corporation electronically scans in the documents into an electronic file system, and forwards electronic files to an attorney in charge.
- 2• The attorney who was responsible for filing the reply in 2004 is no longer affiliated with Axiom Legal Solutions, Inc. (an outside law firm doing work for Assignee corporation), and that attorney could not be contacted.
- 3• Responsibility for the case was transferred to a second attorney, affiliated with Axiom, after the Notice of Abandonment was scanned in.
- 4• Due to workload constraints, the second attorney transferred the case to the undersigned attorney (also affiliated with Axiom) on March 31, 2005.
- 5• The undersigned attorney learned that the attorney who was originally responsible for the case had not forwarded a complete file history of the patent application to Assignee corporation; accordingly, Assignee corporation ordered a copy of the PTO file wrapper on about April 4, 2005.
- 6• Assignee corporation received the copy of the PTO file wrapper and entered it into its electronic file system, and forwarded an electronic copy of the file wrapper to the undersigned attorney who received it on May 12, 2005.
- 7• On May 13, 2005, the undersigned attorney succeeded in locating and contacting the sole inventor (who had left his employment with Assignee corporation), and sent a Declaration to the sole inventor for execution.
- 8• On May 18, 2005, the undersigned Attorney received an executed Declaration from the sole inventor.
- 9• On May 19, 2005, this Petition to Revive is being filed, along with a Declaration and fees required to revive the application and respond to the NOTICE TO FILE MISSING PARTS.

Accordingly, the foregoing explanation of any delay in responding to the NOTICE OF ABANDONMENT supports the unintentional nature of the abandonment of this patent application.

Applicant provides the following explanation for the fees being paid herewith. Under OG Notices: 22 February 2005,

The provisions of 35 U.S.C. 41(a)(1) (filing fee and application size fee), 35 U.S.C. 41(a)(3) (examination fee), and 35 U.S.C. 41(d)(1) (search fee) apply only to applications for patent filed under 35 U.S.C. 111 on or after December 8, 2004, ...

Accordingly, only the \$790 Basic Filing Fee required under the October 1, 2004 fee schedule needs to be provided (and not the \$1000 total for filing, examination and search fees in the December 8, 2004 fee schedule).

In summary, the following fees are provided:

Filing Fee:	\$ 790
Surcharge:	\$ 130
Petition Fee:	<u>\$ 1500</u>
TOTAL	\$ 2420

The Commissioner may charge fee deficiencies or credit overpayments to Deposit Account 50-2396 (Axiom).

The following documents are being filed by Certificate of Mailing today, May 19, 2005:

Copy of NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION
Copy of executed Declaration
Copy of NOTICE OF ABANDONMENT
This PETITION TO REVIVE
Copy of APPOINTMENT OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS
Copy of POWER TO INSPECT AND MAKE COPIES
Credit Card Payment Form including payment for \$2420
Two return receipt post cards

Telephone calls concerning this petition should be directed to the undersigned attorney.

Respectfully submitted,

By: 

Date: May 19, 2005
For Customer No. 26,652
Phone 301.464.0431

Raymond C. Glenny
Registration No. 32,413



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/750,548	12/31/2003	Robert Cahn	2003-0025 (1166-24)

26652
 AT&T CORP.
 P.O. BOX 4110
 MIDDLETOWN, NJ 07748



CONFIRMATION NO. 5580
ABANDONMENT/TERMINATION
LETTER



OC00000014920550

Date Mailed: 01/10/2005

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 05/04/2004.

- No reply was received.

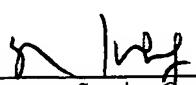
A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). *NOT REQUIRED*

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*A copy of this notice **MUST** be returned with the reply.*


 Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



Attorney Docket No. 2003-0025

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

ADJUSTABLE RATE USAGE-BASED BILLING FOR DATA SERVICES

which was filed on December 31, 2003 as U.S. Patent Application No. 10/750,548.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by an amendment, if any, specifically referred to in this oath or declaration.

I acknowledge the duty to disclose all information known to me which is material to patentability as defined in Title 37, Code of Federal Regulations, 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, 119(a-d) or 365(a-b) of PCT or foreign application(s) for patent or inventors' certificate listed below or priority benefits under 119(e) of any United States provisional application(s) listed below and have also identified below any foreign application for patent or inventors' certificate having a filing date before that of the application on which priority is claimed:

None

I hereby claim the benefit under Title 35, United States Code, 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, 112, I acknowledge the duty to disclose all information known to us to be material to patentability as defined in Title 37, Code of Federal Regulations, 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

None

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

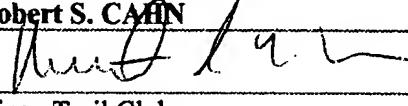
I hereby appoint the attorney(s) associated with Customer Number 26,652 (AT&T Corp.) with full power of substitution and revocation, to prosecute said application, to make alterations and amendments

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therein, to receive the patent, and to transact all business in the Patent and Trademark Office connected therewith.

I also appoint Raymond C. Glenny, Reg. No. 32,413, as associate attorney, with full power to prosecute said application, to make alterations and amendments therein, and to transact all business in the Patent and Trademark Office connected therewith.

PLEASE ADDRESS ALL CORRESPONDENCE TO:	PLACE TELEPHONE CALLS TO:
<p>Address Associated with Customer No. 26,652</p> <p>Mr. Samuel H. Dworetzky AT&T Corp. Room 2A-207 One AT&T Way Bedminster, New Jersey 07921</p>	<p>Raymond C. Glenny Phone: 301.464.0431</p>

FULL NAME OF 1ST INVENTOR:	Robert S. CAHN
INVENTOR'S SIGNATURE:	
DATE:	May 16, 2005
RESIDENCE ADDRESS:	Gipsy Trail Club 607 Gipsy Trail Road Carmel, New York 10512
COUNTRY OF CITIZENSHIP:	United States of America
POST OFFICE ADDRESS:	Gipsy Trail Club 607 Gipsy Trail Road Carmel, New York 10512



**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

PATENT APPLICATION

Robert Cahn

Docket No. 2003-0025**Serial No.** 10/750,548**Group Art Unit** 3629**Filed** December 31, 2003**Confirmation No.** 5580**Examiner****Title** Adjustable Rate Usage-Based Billing For Data Services

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COMMISSIONER FOR PATENTS**P.O. Box 1450****Alexandria, Virginia 22313-1450****SIR:**

**APPOINTMENT OF ATTORNEY AND CHANGE OF CORRESPONDENCE
ADDRESS**

Please recognize any of the attorneys associated with Customer Number 26652 of AT&T Corp., Bedminster, New Jersey, as attorneys in the above-mentioned application, with full power of substitution and revocation, to prosecute said application, to make alterations and amendments therein, and to transact all business in the Patent and Trademark Office connected therewith. Please also recognize Jeffrey L. Brandt (Reg. No. 31490), Charles A. Rattner (Reg. No. 40136) and Raymond C. Glenny (Reg. No. 32413) of Axiom Legal as attorneys in the above-mentioned application, with full power to prosecute said application, to make alterations and amendments therein, and to transact all business in the Patent and Trademark Office connected therewith.

Please direct all written correspondence in this application to Mr. S. H. Dworetzky, AT&T Corp., Room 2A-207, One AT&T Way, Bedminster, NJ 07921. Please direct all telephone calls in this application to Jeffrey L. Brandt at 203-438-1077.

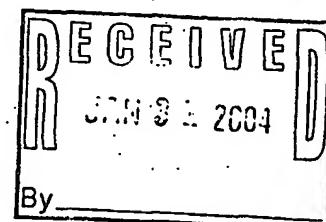
Thomas A. Restaino

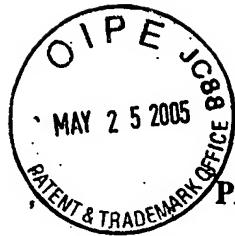
Reg. No. 33444

Attorney for Applicants

Date: 1/25/2005

**AT&T Corp.
Room 2A-207
One AT&T Way
Bedminster, New Jersey 07921**





**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

PATENT APPLICATION

Robert Cahn

Docket No. 2003-0025

Serial No. 10/750,548

Group Art Unit 3629

Filed December 31, 2003

Confirmation No. 5580

Examiner

Title Adjustable Rate Usage-Based Billing For Data Services

COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

SIR:

Power To Inspect And Make Copies

Authorization is hereby given to any associates of Axiom Legal Services, including Jeffrey L. Brandt, Charles A. Rattner and Raymond C. Glenny, to inspect and make copies of the above-identified application, including assignments.

Thomas A. Restaino

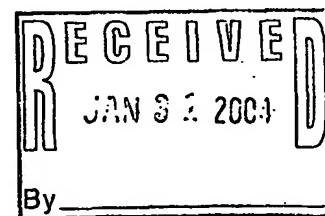
Thomas A. Restaino

Reg. No. 33444

Attorney for Applicants

Date: 1/25/2005

AT&T Corp.
P. O. Box 4110
Middletown, New Jersey 07748





UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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 Washington, D.C. 20231-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/750,548	12/31/2003	Robert Cahn	2003-0025 (1166-24)

26652
 AT&T CORP.
 P.O. BOX 4110
 MIDDLETON, NJ 07748



CONFIRMATION NO. 5580
 FORMALITIES LETTER



OC000000012520661

Date Mailed: 05/04/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 770 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration Surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is \$900 for a Large Entity

- \$770 Statutory basic filing fee.
- \$130 Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

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 03 FC:1051 130.00 0P

Over →

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John Ware

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

RAM Fee History Query
Revenue Accounting and Management

Name/Number: 10881173

Total Records Found: 5

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
07/07/2004	00000031	1	<u>1001</u>	\$770.00	06/30/2004	DA 162480
07/07/2004	00000032	1	<u>1201</u>	\$86.00	06/30/2004	DA 162480
10/13/2004	00000120	1	<u>1051</u>	\$130.00	10/11/2004	DA 162480
10/13/2004	00000834		<u>8021</u>	\$40.00	10/11/2004	DA 162480
04/07/2005	00000206		<u>8007</u>	\$40.00	04/04/2005	DA 162485

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